

HONORABLE JUDGE JAMAL N. WHITEHEAD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL WRIGHT and ALEXIS WRIGHT,
a married couple,

Plaintiff,

vs.

STATE FARM FIRE & CASUALTY
COMPANY, a foreign insurer,

Defendant.

Case No. 2:23-cv-00179-JNW

**DECLARATION OF HEATHER N.
DERENSKI IN SUPPORT OF
PLAINTIFFS' MOTION TO COMPEL**

1. I am over the age of eighteen and competent to testify. I am Plaintiffs' counsel in this case. This declaration is based on my personal knowledge.

2. Attached are true and correct copies of:

- a) **Exhibit 1:** Select pages of State Farm's claim file notes
- b) **Exhibit 2:** 2022 Email Exchange re: Treat's evaluation of Plaintiffs' Claim
- c) **Exhibit 3:** Documents Designated by State Farm as Confidential: Cypher Email regarding Reinspection Results
- d) **Exhibit 4:** State Farm Estimate - January 26, 2022
- e) **Exhibit 5:** Caldwell email re Reinspection Results with Estimate Report

- f) **Exhibit 6:** Plaintiffs Third Requests for Production to Defendant with State Farm's responses
- g) **Exhibit 7:** Plaintiffs' Fed. R. Civ. P. 30(b)(6) Deposition Notices to State Farm with Exhibit A. Topics
- h) **Exhibit 8:** Letter, Emails Re: 08-29-24 Fed. R. Civ. P. 26(f) Conference
- i) **Exhibit 9:** 10-11-24 Email Re Production of Documents by State Farm
- j) **Exhibit 10:** State Farm Incentive Plan, Exhibits *Gamble v. State Farm*
- k) **Exhibit 11:** Documents Designated by State Farm as Confidential: Documents Relating Total Rewards and Management and Employee Incentive Plans BATES WRIGHTM00003557-00003622
- l) **Exhibit 12:** Select pages from State Farm's Fed. R. Civ. P. 30(b)(6) deposition of designee Christina Jalali
- m) **Exhibit 13:** Documents Designated by State Farm as Confidential: Q1 2022 Performance Evaluation, Tim Treat
- n) **Exhibit 14:** State Farm Financial Bulletin 2024 and Annual Reports 2022-2023
- o) **Exhibit 15:** 10-25-24 Defense Counsel Letter Regarding "Claw back" of documents related to State Farm's financial incentive plans
- p) **Exhibit 16:** 02-02-24 Email Exchange re: FRCP 30(b)(6) Topics & Meeting
- q) **Exhibit 17:** April 2024 Email Exchange regarding discovery and FRCP 30(b)(6) Topics
- r) **Exhibit 18:** 10-31-24 email thread regarding LCR 5(g)(3)(A) conferral

3. A. State Farm's Fed. R. Civ. P. 30(b)(6) and Responses to Request for Production No. 20

State Farm's Fed. R. Civ. P. 30(b)(6) deposition was unilaterally bifurcated by Defendant.

This resulted in three witnesses over two days, and the witnesses could not all testify on the topics for which they were designated pursuant to Plaintiffs' Fed. R. Civ. P. 30(b)(6) topics Notice,

1 “Exhibit A”. The transcript of all witness is unfortunately not yet available, as the final
2 depositions were just held on October 24, 2024, despite a “rush” order for the transcript.

3 The designated witness for Topic 3 of Exhibit at A to Plaintiffs 30(b)(6) Deposition Notice
4 relied upon the documents produced in response to Request for Production 20 to prepare for his
5 deposition and for his testimony. These documents were BATES labeled WRIGHTM00003557-
6 3662. During that testimony, it was evident we received very few of the available financial
7 summaries and that are material to understanding State Farm’s and its employees’ motivations
8 from 2021-present, pursuant to the various company incentive plans. The witness, Mr. John Feely,
9 testified that:

- 11 • With regard to the limited financial summary pages received for the Employee
12 Incentive Plan (“EIP”) and Management Incentive Plan (“MIP”) that those were
13 only a select sampling. State Farm has regularly published (internally) results for
14 its MIP and EIP so that employees can monitor Enterprise Performance, and
15 presumably, adjust their behavior accordingly;
- 16 • The EIP has an “expense modifier” that could result in an increased payout if met;
- 17 • The witness could not explain what comprised the “expense modifier;”
- 18 • What constituted “expense” under the EIP was best directed at someone in the
19 finance department;
- 20 • The MIP Enterprise Performance metric includes a subcategory for expenses that
21 includes indemnity payments and specifically measured toward the overall result
22 goal;
- 23 • The witness had no further information about the indemnity payments included in
24 the Expense category of the EIP.

23 **B. August 29, 2024 Fed. R. Civ. P. Discovery Conference**

24 During this conference, the parties agreed:

- 25 • Not every employee involved in Plaintiffs’ claim warranted production of their
personnel files; however,

- Employees actively engaged in adjusting or evaluating the claim should be included in any response, including Claim Specialist Aldous Harris and Amy Brooks.

C. Meet and Confer – August 29, 2024

This meeting was attended by Defense Counsel Hicks and Plaintiffs counsel Derenski and Malling, along with Malling's Associate Erin Cossette. This call was 2 ½ hours. Numerous issues pertaining to Plaintiffs' discovery requests were addressed. Defense counsel objected Request for Production number 21 with regard to "all" personnel handling Plaintiffs' claims, and indeed Plaintiffs agreed to limit it to those who made claim decisions or managed the claim in any way, including employees Aldous Harris and Amy Brooks.

D. Meet and Confer – October 24, 2024

During the October 14, 2024 30(b)(6) deposition, as we were going to break, I promptly addressed with Defense Counsel Hicks there were material financial incentive plan documents missing and that we only received a select few. e.g. The monthly, quarterly and annual incentive plan summaries from 2021-present.

This discussion occurred both on and off the record in the presence of Plaintiffs' counsel Malling. I requested that State Farm supplement its production to include those documents. Defense Counsel Hicks said he would need to "get back" to Plaintiffs' counsel but was unavailable until November 8 due to an upcoming trial. The Discovery Deadline was the following day, and the Discovery Motions Deadline fell during Defense Counsel's unavailability (November 1). Mr. Malling and I confirmed with Mr. Hicks that we considered the exchange a meet and confer pursuant to Fed. R. Civ. P. 26(f) and 37(a) given his upcoming availability until after all material deadlines. Counsel Malling and I attempted further discussion on the documents, but Mr. Hicks refused to engage demanding that Plaintiffs' counsel submit the request in writing, despite the opportunity to memorialize the issues on the record, and abruptly turned off his camera and microphone.

E. Request for Production No. 21: Personnel Files

- State Farm produced 527 pages of Treat's personnel file;
- Most of the production was outside the scope of what Plaintiffs sought;
- Defendant produced, passport copies, a birth certificate, college transcripts, a

1 driver's license copy, marriage certificate, miscellaneous annual performance
2 reviews from 2000-2019.

- 3 • Non-public information was mostly redacted as was Treat's salary
- 4 • Performance-related documents for claims management involved in Plaintiffs'
5 claim were entirely withheld.

6 4. I Certify that Plaintiffs' counsel have met and conferred, or attempted to meet and
7 confer in good faith, on the documents sought under Plaintiffs' Motion to Compel pursuant to
8 Fed. R. Civ. P. 26(f) and Rule 37.

9 I declare under penalty of perjury under the laws of the State of Washington that the
10 foregoing is true and correct.

11 DATED this 1st day of November 2024 in Snohomish, Washington.

12 s/Heather N. Derenski
13 Heather N. Derenski
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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that on November 1, 2024, I caused one true copy of the foregoing document with exhibits to be served in the manner indicated below:

Attorney for Defendant
State Farm Fire & Casualty Company
James D. Hicks
SINARS SLOWIKOWSKI TOMASKA LLC
221 1st Avenue W., Suite 200
Seattle, WA 98121 Seattle, WA 98119
(206) 705-2115
jhicks@sinarslaw.com

- ☐ U.S. Postal Service
- ☐ Facsimile
- ☐ E-Mail
- ☒ E-Service/ECF
- ☐ Hand Delivery
- ☐ Via Legal Messenger Service

DATED November 1, 2024, in Snohomish, Washington.

CEDAR VIEW LAW, PLLC

s/Heather N. Derenski
Heather N. Derenski, Attorney